

# House Calendar

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Thursday, March 17, 2011

72nd DAY OF THE BIENNIAL SESSION

House Convenes at 9:30 A.M.

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**ACTION CALENDAR**

**Action Postponed Until March 17, 2011**

**Third Reading**

**H. 101**

An act relating to voting requirements in common ownership communities

**Committee Bill for Second Reading**

**H. 430**

An act relating to providing mentoring support for new principals and technical center directors.

**(Rep. Campion of Bennington will speak for the Committee on Education.)**

**Favorable with Amendment**

**H. 41**

An act relating to requiring employment breaks

**Rep. Moran of Wardsboro**, for the Committee on **General, Housing and Military Affairs**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 21 V.S.A. § 304 is amended to read:

§ 304. EMPLOYMENT CONDITIONS; EMPLOYMENT BREAKS

(a) An employer shall ~~provide an offer each~~ offer each employee ~~with paid or unpaid breaks from work totaling at least 30 minutes during each six hours of work to assure that employees have reasonable opportunities during work periods to eat and to use toilet facilities in order to protect the health and hygiene of the employee to eat, rest, and use toilet facilities. If the break from work would pose a threat to property, life, public safety, or public health, the employer may offer a shorter break or reschedule the time that the break may be taken.~~

(b) An employer may adopt an employment break policy more generous than that provided by this section.

(c) Nothing in this section shall be construed to diminish an employer's obligation to comply with any collective bargaining agreement or any employment benefit program or plan that provides greater break rights than the rights provided by this section. A collective bargaining agreement or

employment benefit program or plan may not diminish the rights provided by this section.

(d) An employer shall not retaliate or discriminate against an employee for asserting the employee's rights provided by this section.

(e) An employee who is aggrieved by a violation of this section may bring a civil action for equitable and other appropriate relief, including reinstatement, civil damages in the amount of three times the employee's hourly wage multiplied by the number of hours of break time that the employee was denied, costs, and reasonable attorney's fees. No action may be brought pursuant to this subsection unless the employee has affirmatively requested, and been denied, the work break period allowed by this section.

(f) An employer who violates this section may be assessed an administrative penalty of up to \$100.00 for each violation not to exceed \$1,000.00 in any 30-day period. A complaint shall be brought to the department within 60 days of an alleged violation.

Sec. 2. 21 V.S.A. § 303 is amended to read:

§ 303. PENALTY; JUDICIAL BUREAU

Any employer who violates the provisions of ~~this subchapter~~ section 305 of this title shall be assessed a civil penalty of not more than \$100.00 for each and every violation.

**( Committee Vote: 5-3-0)**

**Amendment to be offered by Rep. Olsen of Jamaica to the recommendation of amendment of the Committee on General, Housing and Military Affairs to H. 41**

By striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. STUDY

(a) The department of labor shall conduct a study of whether employees are being denied reasonable opportunities for employment breaks under 21 V.S.A. § 304, and to make a determination as to whether the problem is significant enough to warrant a change in the law.

(b) The department shall report its findings and any recommendations to the house committee on general, housing and military affairs and the senate committee on economic development, housing and general affairs by March 17, 2012.

## H. 264

An act relating to driving while intoxicated and to forfeiture and registration of motor vehicles

**Rep. Lippert of Hinesburg**, for the Committee on **Judiciary**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

### Sec. 1. PURPOSE

This act is intended to help prevent the harm caused to Vermonters and their families and friends by persons who repeatedly operate motor vehicles while under the influence of alcohol or other drugs. The list of Vermonters who have died or been injured because of persons who repeatedly operate motor vehicles while under the influence of alcohol or other drugs is far too long. It includes both the victims of recent high profile cases, such as Nick Fournier and Kaye Borneman, as well as others whose deaths and injuries may have received less public notice. All of these people are and were equally precious. This act cannot now help them, but it is intended to use lessons learned from these losses to create new approaches to help prevent the needless and heartrending harm suffered by the victims, living and dead, of those who drive under the influence.

\* \* \* Registration, licensing, and insurance \* \* \*

Sec. 2. 23 V.S.A. § 303 is amended to read:

### § 303. APPLICATION REQUIRED

\* \* \*

(b) An application for registration may be refused by the commissioner if it is not accompanied by proof of payment of the use tax imposed by ~~section~~ Section 4481 of the Internal Revenue Code of 1986 in such form as may be prescribed by the Secretary of the Treasury or in another form acceptable to the commissioner in the case of vehicles which are subject to the tax.

(c)(1) The commissioner shall refuse an application for registration of a vehicle with a single registrant or revoke the registration of a vehicle with a single registrant if the applicant's or registrant's license or learner's permit is suspended or revoked in any jurisdiction.

(2) The commissioner shall not approve an application for a transfer of title to a motor vehicle if the transferor's license or learner's permit is suspended or revoked in any jurisdiction and the transferor is named as a transferee or new owner on the application.

Sec. 3. 23 V.S.A. § 800 is amended to read:

§ 800. MAINTENANCE OF FINANCIAL RESPONSIBILITY

(a) No owner or operator of a motor vehicle required to be licensed shall operate or permit the operation of the vehicle upon the highways of the state without having in effect an automobile liability policy or bond in the amounts of at least \$25,000.00 for one person and \$50,000.00 for two or more persons killed or injured and \$10,000.00 for damages to property in any one accident. In lieu thereof, evidence of self-insurance in the amount of \$115,000.00 must be filed with the commissioner of motor vehicles. Such financial responsibility shall be maintained and evidenced in a form prescribed by the commissioner. The commissioner may require that evidence of financial responsibility be produced before motor vehicle inspections are performed pursuant to the requirements of section 1222 of this title.

(b) A person who violates this section shall be assessed a civil penalty of not more than ~~\$100.00~~ \$500.00, and such violation shall be a traffic violation within the meaning of chapter 24 of this title.

Sec. 4. DEPARTMENT OF MOTOR VEHICLES PROCEDURES

On or before January 15, 2012, the department of motor vehicles shall:

(1) configure its computer system so that it is able to accept notice directly from insurance companies that a person's motor vehicle insurance policy has been cancelled; and

(2) develop a system which, when a person applies for a license to operate a motor vehicle, alerts the department that the person's license is suspended in another jurisdiction.

\*\*\* Permitting Unlicensed or Impaired Person to Operate \*\*\*

Sec. 5. 23 V.S.A. § 1130 is amended to read:

§ 1130. PERMITTING UNLICENSED OR IMPAIRED PERSON TO OPERATE

(a) No person shall knowingly employ, as operator of a motor vehicle, a another person as an operator of a motor vehicle knowing that the other person is not licensed as provided in this title.

(b) No person shall knowingly permit a motor vehicle owned by him or her or under his or her control to be operated by a another person who if the person who owns or controls the vehicle knows that the other person has no legal right to do so, or in violation of a provision of this title operate the vehicle.

(c) No person shall permit a motor vehicle owned by him or her or under his or her control to be operated by another person if the person who owns or controls the vehicle has actual or constructive knowledge that the operator is:

(1) under the influence of intoxicating liquor; or

(2) under the influence of any other drug or under the combined influence of alcohol and any other drug to a degree which renders the person incapable of driving safely.

(d)(1) A person who violates subsection (c) of this section shall be fined not more than \$1,000.00 or imprisoned for not more than six months, or both.

(2) If the death or if serious bodily injury as defined in 13 V.S.A. § 1021(2) results to any person other than the operator from a violation of subsection (c) of this section, the person convicted of the violation shall be fined not more than \$5,000.00 or imprisoned not more than two years, or both. The provisions of this subdivision do not limit or restrict prosecutions for manslaughter.

(e) In a prosecution under this section, the defendant may raise as an affirmative defense to be proven by a preponderance of the evidence that the unlicensed person obtained permission from the defendant to operate the motor vehicle by placing the defendant under duress or subjecting the defendant to coercion.

\* \* \* DUI penalties and alternative sanctions \* \* \*

Sec. 6. 23 V.S.A. § 1210 is amended to read:

§ 1210. PENALTIES

\* \* \*

(d) Third ~~or subsequent~~ offense. A person convicted of violating section 1201 of this title who has ~~twice~~ previously been convicted two times of a violation of that section shall be fined not more than \$2,500.00 or imprisoned not more than five years, or both. At least ~~400 hours of community service shall be performed,~~ or 100 consecutive hours of the sentence of imprisonment shall be served and may not be suspended or deferred or served as a supervised sentence, except that credit for a sentence of imprisonment may be received for time served in a residential alcohol facility pursuant to sentence if the program is successfully completed. The court may impose a sentence that does not include a term of imprisonment or that does not require that the 100 hours of imprisonment be served consecutively only if the court makes written findings on the record that such a sentence will serve the interests of justice and public safety.

(e)(1) Fourth or subsequent offense. A person convicted of violating section 1201 of this title who has previously been convicted three times of a violation of that section shall be fined not more than \$5,000.00 or imprisoned not more than ten years, or both. At least 200 consecutive hours of the sentence of imprisonment shall be served and may not be suspended or deferred or served as a supervised sentence, except that credit for a sentence of imprisonment may be received for time served in a residential alcohol facility pursuant to sentence if the program is successfully completed. The court shall not impose a sentence that does not include a term of imprisonment unless the court makes written findings on the record that there are compelling reasons why such a sentence will serve the interests of justice and public safety.

(2) The department of corrections shall provide appropriate alcohol and substance abuse therapy to any person convicted of a violation of this subsection.

~~(e)(1)~~(f)(1) Death resulting. If the death of any person results from a violation of section 1201 of this title, the person convicted of the violation shall be fined not more than \$10,000.00 or imprisoned not less than one year nor more than 15 years, or both. The provisions of this subsection do not limit or restrict prosecutions for manslaughter.

(2) If the death of more than one person results from a violation of section 1201 of this title, the operator may be convicted of a separate violation of this subdivision for each decedent.

(3)(A) If the death of any person results from a violation of section 1201 of this title and the person convicted of the violation has previously been convicted two times of a violation of that section, a sentence ordered pursuant to this subsection shall, except as provided in subdivision (B) of this subdivision (3), include at least a five-year term of imprisonment. The five-year minimum term of imprisonment required by this subdivision shall be served and may not be suspended, deferred, or served as a supervised sentence. The defendant shall not be eligible for probation, parole, furlough, or any other type of early release until the expiration of the five-year term of imprisonment.

(B) Notwithstanding subdivision (A) of this subdivision (3), if the death of any person results from a violation of section 1201 of this title and the person convicted of the violation has previously been convicted two times of a violation of that section, the court may impose a sentence that does not include a term of imprisonment or which includes a term of imprisonment of less than five years if the court makes written findings on the record that such a sentence will serve the interests of justice and public safety.



~~(f)(1)~~(g)(1) Injury resulting. If serious bodily injury, as defined in 13 V.S.A. § 1021(2), results to any person other than the operator from a violation of section 1201 of this title, the person convicted of the violation shall be fined not more than \$5,000.00, or imprisoned not more than 15 years, or both.

(2) If serious bodily injury as defined in 13 V.S.A. § 1021(2) results to more than one person other than the operator from a violation of section 1201 of this title, the operator may be convicted of a separate violation of this subdivision for each person injured.

(3)(A) If serious bodily injury as defined in 13 V.S.A. § 1021(2) results to any person other than the operator from a violation of section 1201 of this title and the person convicted of the violation has previously been convicted two times of a violation of section 1201, a sentence ordered pursuant to this subsection shall, except as provided in subdivision (B) of this subdivision (3), include at least a five-year term of imprisonment. The five-year minimum term of imprisonment required by this subdivision shall be served and may not be suspended, deferred, or served as a supervised sentence. The defendant shall not be eligible for probation, parole, furlough, or any other type of early release until the expiration of the five-year term of imprisonment.

(B) Notwithstanding subdivision (A) of this subdivision (3), if serious bodily injury as defined in 13 V.S.A. § 1021(2) results to any person other than the operator from a violation of section 1201 of this title and the person convicted of the violation has previously been convicted two times of a violation of section 1201, the court may impose a sentence that does not include a term of imprisonment or which includes a term of imprisonment of less than five years if the court makes written findings on the record that such a sentence will serve the interests of justice and public safety.

~~(g)~~(h) Determination of fines. In determining appropriate fines under this section the court may take into account the total cost to a defendant of alcohol screening, participation in the alcohol and driving education program and therapy and the income of the defendant.

~~(h)~~(i) A person convicted of violating section 1201 of this title shall be assessed a surcharge of \$60.00, which shall be added to any fine imposed by the court. The court shall collect and transfer such surcharge to the department of health for deposit in the health department's laboratory services special fund.

~~(i)~~(j) A person convicted of violating section 1201 of this title shall be assessed a surcharge of \$50.00, which shall be added to any fine or surcharge imposed by the court. The court shall collect and transfer the surcharge

assessed under this subsection to the office of defender general for deposit in the public defender special fund specifying the source of the monies being deposited. The collection procedures described in 13 V.S.A. § 5240 shall be utilized in the collection of this surcharge.

⊕(k) A person convicted of violating section 1201 of this title shall be assessed a surcharge of \$50.00, which shall be added to any fine or surcharge imposed by the court. The court shall collect and transfer the surcharge assessed under this subsection to be credited to the DUI enforcement fund. The collection procedures described in 13 V.S.A. § 5240 shall be utilized in the collection of this surcharge.

#### Sec. 7. COMPREHENSIVE SYSTEM TO REDUCE REPEAT DUI

##### OFFENSES; DEPARTMENTS OF MOTOR VEHICLES, PUBLIC SAFETY, AND CORRECTIONS

On or before January 15, 2012, the departments of motor vehicles, public safety, and corrections shall jointly report to the house and senate committees on judiciary a plan for implementation of a comprehensive system of penalties, alternative sanctions, and treatment to reduce the number of persons with repeat offenses of operating motor vehicles while under the influence of alcohol or other drugs. The system may include, among other measures, the following:

(1) a mandatory sobriety program for repeat DUI offenders similar to South Dakota's "24/7 Sobriety Program;"

(2) increased penalties for operating a vehicle with an alcohol concentration substantially greater than the legal limit;

(3) lowering the legally permissible alcohol concentration for operating a motor vehicle by persons who have previously been convicted of operating a motor vehicle while under the influence of alcohol or other drugs;

(4) enhanced use of ignition interlock devices;

(5) mandatory alcohol and drug counseling and treatment for persons convicted of operating a motor vehicle while under the influence of alcohol or other drugs;

(6) establishment of a secure facility for housing and treatment of persons convicted of operating a motor vehicle while under the influence of alcohol or drugs; and

(7) the circumstances under which the operator of a motor vehicle may be required to submit to a blood test to determine whether he or she has been operating the vehicle while under the influence of a drug other than alcohol.

\* \* \* Detention of operator; forfeiture and immobilization of vehicle \* \* \*

Sec. 8. 23 V.S.A. § 1212 is amended to read:

§ 1212. CONDITIONS OF RELEASE AND PAROLE; ARREST UPON VIOLATION

\* \* \*

(d) A law enforcement officer or a corrections officer who observes a person violating a condition of parole requiring that the person not operate a motor vehicle may promptly arrest the person for violating the condition and may detain the person pursuant to 28 V.S.A. § 551. The officer may immobilize the vehicle and shall immediately notify the parole board of the suspected violation. If the parole board determines pursuant to 28 V.S.A. § 552 that a parole violation has occurred, the board shall notify the state's attorney in the county where the violation occurred, who may institute forfeiture proceedings against the vehicle under section 1213c of this title.

Sec. 9. 23 V.S.A. § 1213b is amended to read:

§ 1213b. FORFEITURE OF VEHICLE

At the time of sentencing after a third or subsequent conviction under section 1201 of this title or after a conviction under subdivision 1130(c)(2) of this title, or upon a determination by the parole board that a person has violated a condition of parole requiring that the person not operate a motor vehicle, the court may, upon motion of the state and in addition to any penalty imposed by law and after notice and hearing, order the motor vehicle operated by the defendant or parolee at the time of the offense forfeited and sold as provided in section 1213c of this title.

( Committee Vote: 10-0-1)

**NEW BUSINESS**

**Third Reading**

**H. 11**

An act relating to the discharge of pharmaceutical waste to state waters

**H. 66**

An act relating to the illegal taking of trophy big game animals

**Amendment to be offered by Rep. Munger of South Burlington to H. 66**

First: In Sec. 2, 10 V.S.A. § 4518, in the second sentence, by striking the words “~~60~~ 120 days” where they appear and inserting in lieu thereof “60 days”

Second: by striking Sec. 5 in its entirety and inserting in lieu thereof the following:

Sec. 5. EFFECTIVE DATES

(a) This section and Secs. 3 (hunting and fishing license; armed forces; nonresident) and 4 (hunting and fishing license; armed forces; resident) of this act shall take effect on July 1, 2011.

(b) Secs. 1 (restitution values for wildlife violation) and 2 (big game violation penalties) shall take effect on July 1, 2012.

**H. 431**

House concurrent resolution congratulating the 2011 Champlain Valley Union High School Redhawks Division I championship boys' Nordic ski team

**Favorable with amendment**

**H. 287**

An act relating to job creation and economic development

**Rep. Botzow of Pownal**, for the Committee on **Commerce and Economic Development**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Incentive Grants; VEGI \* \* \*

Sec. 1. VERMONT BUSINESS PARTNER INCENTIVE

(a) Definitions. In this section:

(1) "Eligible new employer" means a person:

(A) who has been in business for three or more years and is domiciled in a state other than Vermont;

(B) who has an existing supplier or vendor relationship with the recruiting qualified taxpayer;

(C) who establishes a new business location within Vermont and hires five or more new full-time employees; and

(D) who does not control and who is not controlled by the recruiting qualified taxpayer. For purposes of this subdivision (D), "control," including the term "controlled by," means:

(i) having the power, directly or indirectly, to elect or remove a majority of the members of the other governing body of a person through the ownership of voting shares or interests, by contract, or otherwise; or

(ii) being subject to a majority of the risk of loss from the person's activities or entitled to receive a majority of the person's residual returns.

(2) "Full-time employee" means an individual who works at least 35 hours per week at a Vermont business location and is paid a qualified wage.

(3) "Qualified taxpayer" means a person doing business in Vermont that is registered with the Vermont secretary of state, is current with all payments and filings required by the Vermont departments of taxes and of labor, and has a valid workers' compensation policy.

(4) "Qualified wage" means compensation that meets or exceeds the prevailing wage and benefit levels for the region and sector, as determined by the commissioner of labor.

(5) "Secretary" means the secretary of commerce and community development.

(b) Amount and availability of incentive.

(1) A qualified taxpayer and an eligible new employer shall each be entitled to an incentive equal to \$500.00 for each full-time employee of an eligible new employer hired on or before December 31, 2012, as certified by the secretary, not to exceed \$5,000.00 per recipient per year.

(2) A qualified taxpayer and an eligible new employer may claim an incentive by filing with the agency of commerce and community development, on a form created by the secretary for that purpose, one year after the date the eligible new employer established its qualifying Vermont business location, as certified by the secretary.

(3) The secretary may in his or her discretion reduce to three the minimum number of employees required of a relocating eligible new employer if the compensation paid to one or more of the new employees exceeds by at least 20 percent the qualified wage for the position.

Sec. 2. Sec. 3(c) of No. 184 of the Acts of the 2005 Adj. Sess. (2006) is amended to read:

(c) Beginning April 1, 2009, the economic incentive review board is authorized to grant payroll-based growth incentives pursuant to the Vermont employment growth incentive program established by Sec. 9 of this act. Unless extended by act of the General Assembly, as of ~~January~~ July 1, 2012, no new Vermont employment growth incentive (VEGI) awards under 32 V.S.A. § 5930b may be made. Any VEGI awards granted prior to ~~January~~ July 1, 2012 may remain in effect until used.

Sec. 3. 32 V.S.A. § 5930a(c)(1) is amended to read:

(1) The enterprise should create new, full-time jobs to be filled by individuals who are Vermont residents. The new jobs shall not include jobs or employees transferred from an existing business in the state, or replacements for vacant or terminated positions in the applicant's business. The new jobs include those that exceed the applicant's average annual employment level in Vermont during the two preceding fiscal years, unless the council determines that the enterprise will establish a significant new line of business and create new jobs in the new line of business that were not part of the enterprise prior to filing its application for incentives with the council. The enterprise should provide opportunities that increase income, reduce unemployment, and reduce facility vacancy rates. Preference should be given to projects that enhance economic activity in areas of the state with the highest levels of unemployment and the lowest levels of economic activity.

Sec. 4. 32 V.S.A. § 5930b(a)(24) is amended to read:

(24) "Wage threshold" means the minimum annualized Vermont gross wages and salaries paid, as determined by the council, but not less than 60 percent above the Vermont minimum wage at the time of application, in order for a new job to be a qualifying job under this section, unless the council determines that, based on a certification by the secretary of commerce and community development, the enterprise would create new jobs in a county of Vermont with an average unemployment rate that exceeds the average statewide unemployment rate for the most recently reported three-month period prior to the date of application.

Sec. 5. 32 V.S.A. § 5930b(e) is amended to read:

(e) Reporting. By May 1, 2008 and by May 1 each year thereafter, the council and the department of taxes shall file a joint report on the employment growth incentives authorized by this section with the chairs of the house committee on ways and means, the house committee on commerce and economic development, the senate committee on finance, the senate committee on economic development, housing and general affairs, the house and senate committees on appropriations, and the joint fiscal committee of the general assembly and provide notice of the report to the members of those committees. The joint report shall contain the total authorized award amount of incentives granted during the preceding year, amounts actually earned and paid from inception of the program to the date of the report, including the date and amount of the award, the expected calendar year or years in which the award will be exercised, whether the award is currently available, the date the award will expire, ~~and~~ the amount and date of all incentives exercised, and any waiver of the wage threshold requirements granted pursuant to subdivision (a)(24) of this section. The joint report shall also include information on

recipient performance in the year in which the incentives were applied, including the number of applications for the incentive, the number of approved applicants who complied with all their requirements for the incentive, the aggregate number of new jobs created, the aggregate payroll of those jobs and the identity of businesses whose applications were approved. The council and department shall use measures to protect proprietary financial information, such as reporting information in an aggregate form.

Sec. 6. SCIENCE, TECHNOLOGY, ENGINEERING, AND  
MATHEMATICS (STEM) INCENTIVE PROGRAM

(a) In this section:

(1) “Accredited institution” means an educational institution that is accredited by a regional accrediting association or by one of the specialized accrediting agencies recognized by the United States secretary of education.

(2) “Qualified new employee” means a person who:

(A) is hired by a qualified employer for a STEM position on or before December 31, 2012;

(B) graduated from an accredited institution with an associate’s degree or higher not more than 18 months before the date of hire; and

(C) is paid annual compensation of not less than \$50,000.00, including the value of benefits.

(3) “Qualified employer” means a person doing business in Vermont that is registered with the Vermont secretary of state, is current with all payments and filings required by the Vermont departments of taxes and of labor, and has a valid workers’ compensation policy.

(4) “Secretary” means the secretary of commerce and community development.

(5) “STEM position” means an employment position in the field of science, technology, engineering, or mathematics that requires, as determined by the secretary in his or her discretion, a high level of scientific or mathematical knowledge and skill. The term shall not include a position of academic instruction with a college or university.

(6) “Student loan” means debt incurred for the purpose of paying tuition and expenses at an accredited institution, excluding any debt or other financial assistance provided by a family member, relative, or other private person.

(b)(1) A qualified new employee who is hired by and remains in a STEM position with one or more qualified employers for a period of not less than five

years shall be eligible for an incentive to pay a qualified student loan in the amount of \$1,500.00 per year for five years.

(2) A qualified new employee shall notify the secretary of his or her initial employment in a STEM position within 30 days of the date of hire and shall provide the secretary an annual notice of employment in a STEM position in each of the five years thereafter.

(3) Following receipt of an annual notice of employment in a STEM position and verification of employment with one or more qualified employers, the secretary shall deliver an incentive to the qualified new employee pursuant to subdivision (1) of this subsection.

(4) The secretary shall award up to a maximum of \$75,000.00 per year for incentives in accordance with this section.

(c) The secretary shall design and make available on the agency of commerce and community development website:

(1) any forms necessary for a new employee to apply for an incentive available under this section; and

(2) a list of STEM positions for which a new employee may be eligible for an incentive under this section.

#### Sec. 7. LONG-TERM UNEMPLOYED HIRING INCENTIVE

(a) In this section:

(1) “New full-time employment” means employment by a qualified employer in a permanent position at least 35 hours each week in the year for which an incentive is claimed at a compensation of not less than the average wage for the corresponding economic sector in the county of the state as determined by the Vermont department of labor.

(2) “Qualified employer” means a person doing business in Vermont that is registered with the Vermont secretary of state, is current with all payments and filings required by the Vermont departments of taxes and of labor, and has a valid workers’ compensation policy.

(3) “Qualified long-term unemployed Vermonter” means a legal resident of Vermont who collected unemployment insurance benefits in the state of Vermont for five months or more or whose collection of unemployment insurance benefits has expired within 30 days of the date of new employment with a qualified employer and who was hired through a referral from the Vermont department of labor.

(b) A qualified employer who hires a qualified long-term unemployed Vermonter on or before December 31, 2012 shall be eligible to receive a hiring



incentive one year after the employee's date of hire in the amount of \$500.00, not to exceed \$5,000.00 per year per employer.

(c) The commissioner of labor shall administer payment of incentives consistent with this section and shall develop:

(1) an application form for qualified employers; and

(2) a process for verifying compliance with the eligibility requirements of the program.

Sec. 8. [RESERVED]

Sec. 9. [RESERVED]

\* \* \* Labor; Workforce Training \* \* \*

Sec. 10. 10 V.S.A. § 531 is amended to read:

§ 531. ~~EMPLOYMENT TRAINING~~ VERMONT TRAINING PROGRAM

(a) The secretary of commerce and community development may issue performance-based grants to any employer, consortium of employers, or ~~contract with~~ providers of training, either individuals or organizations, as necessary, to conduct training under the following circumstances:

\* \* \*

(b) The secretary of commerce and community development shall find in the grant ~~or contract~~ that:

(1) the employer's new or expanded facility will enhance employment opportunities for Vermont residents;

(2) the existing labor force within the state will probably be unable to provide the employer with sufficient numbers of employees with suitable training and experience; ~~and~~

(3) the employer provides its employees with at least three of the following:

(A) health care benefits with 50 percent or more of the premium paid by the employer;

(B) dental assistance;

(C) paid vacation and holidays;

(D) child care;

(E) other extraordinary employee benefits; ~~and~~

(F) retirement benefits; and

(4) the training is directly related to the employment responsibilities of the trainee.

(c) The employer promises as a condition of the grant to:

(1) employ new persons at a wage which, at the completion of the training program, is two times the prevailing state or federal minimum wage, whichever is greater, reduced by the value of any existing health benefit package up to a limit of ~~30~~ 35 percent of the gross program wage, or for existing employees, to increase the wage to two times the prevailing state and federal minimum wage, whichever is greater, reduced by the value of any existing health benefit package up to a limit of ~~20~~ 25 percent of the gross program wage, upon completion of training; provided, however, that in areas defined by the secretary of commerce and community development in which the secretary finds that the rate of unemployment is ~~50 percent~~ greater than the average for the state, the wage rate under this subsection may be set by the secretary at a rate no less than one and one-half times the federal or state minimum wage, whichever is greater;

\* \* \*

(4) survey a reasonable sample of employees, on a form prepared by the secretary of commerce and community development for that purpose, upon completion of training in a manner described in the grant agreement; and

(5) submit a customer satisfaction report to the secretary of commerce and community development, on a form prepared by the secretary for that purpose, no more than 30 days from the last day of the training program.

(d) In issuing a grant ~~or entering a contract~~ for the conduct of training under this section, the secretary of commerce and community development shall:

(1) first consult with: the commissioner of education regarding vocational-technical education; the commissioner of labor regarding apprenticeship programs, on-the-job training programs, and recruiting through Vermont Job Service and available federal training funds; the commissioner for children and families regarding welfare to work priorities; and the University of Vermont and the Vermont state colleges;

(2) disburse grant funds only for training hours that have been successfully completed by employees; and

(3) use funds under this section only to supplement training efforts of employers and not to replace or supplant training efforts of employers.

\* \* \*

(h) The secretary may designate the commissioner of economic, housing and community development to carry out his or her powers and duties under this chapter.

~~(i) (1) Program Outcomes. The joint fiscal office shall prepare a training program performance report based on the following information submitted to it by the Vermont training program, which is to be collected from each participating employer and then aggregated:~~

~~(A) The number of full time employees six months prior to the training and six months after its completion.~~

~~(B) For all existing employees, the median hourly wages prior to and after the training.~~

~~(C) The number of “new hires,” “upgrades,” and “crossovers” deemed eligible for the waivers authorized by statute and the median wages paid to employees in each category upon completion.~~

~~(D) A list and description of the benefits required under subdivision (e)(3) of this section for all affected employees, including the number of employees that receive each type of benefit.~~

~~(E) The number of employers allowed to pay reduced wages in high unemployment areas of the state, along with the number of affected workers and their median wage.~~

~~(2) Upon request by the secretary of commerce and community development, participating employers shall provide the information necessary to conduct the performance report required by this subsection. The secretary, in turn, shall provide such information to the joint fiscal office in a manner agreed upon by the secretary and the joint fiscal office. The secretary and the joint fiscal office shall take measures to ensure that company specific data and information remain confidential and are not publicly disclosed except in aggregate form. The secretary shall submit to the joint fiscal office any program outcomes, measurement standards, or other evaluative approaches in use by the training program.~~

~~(3) The joint fiscal office shall review the information collected pursuant to subdivisions (1) and (2) of this subsection and prepare a training program performance report with recommendations relative to the program. The joint fiscal office shall submit its first training program performance report on or before January 15, 2011, to the senate committee on economic development, housing and general affairs and the house committee on commerce and economic development. A second performance report shall be submitted on or before January 15, 2016. In addition to the information evaluated pursuant to~~

~~subdivision (1) of this subsection, the second report shall include recommendations as to the following:~~

~~(A) whether the outcomes achieved by the program are sufficient to warrant its continued existence.~~

~~(B) whether training program outcomes can be improved by legislative or administrative changes.~~

~~(C) whether continued program performance reports are warranted and, if so, at what frequency and at what level of review.~~

~~(4) The joint fiscal office may contract with a consultant to conduct the performance reports required by this subsection. Costs incurred in preparing each report shall be reimbursed from the training program fund up to \$15,000.00.~~

Program Outcomes.

(1) On or before January 15, 2012, the agency of commerce and community development, in coordination with the workforce development council and the department of labor and in periodic consultation with the joint fiscal office, shall develop a common set of benchmarks and performance measures for the training program established in this section and the workforce education and training fund established in section 543 of this title.

(2) On or before January 15, 2014, the joint fiscal office shall prepare a performance report using the benchmarks and performance measures created pursuant to subdivision (1) of this subsection. The fiscal office shall submit its report to the senate committee on economic development, housing and general affairs and the house committee on commerce and economic development.

(3) The secretary shall use information gathered pursuant to this subsection and the survey results and customer satisfaction reports submitted pursuant to subdivision (c)(4) of this section to evaluate the program and make necessary changes that fall within the secretary's authority or, if beyond the scope of the secretary's authority, to recommend necessary changes to the appropriate committees of the general assembly.

\* \* \*

(k) Annually on or before January 15, the secretary shall submit a report to the house committee on commerce and economic development and the senate committee on economic development, housing and general affairs summarizing all active and completed contracts and grants, the types of training activities provided, the number of employees served and, the average wage by employer and addressing any waivers granted.

Sec. 11. 10 V.S.A. § 544 is added to read:

§ 544. VERMONT INTERNSHIP PROGRAM

(a)(1) The department of labor shall develop and implement a statewide Vermont Internship Program for Vermonters who are in high school or in college and for those who are recent graduates of 18 months or less.

(2) The program shall serve as a single portal for coordinating and providing funding to public and private entities for internship programs that match Vermont employers with students from public and private secondary schools, regional technical centers, the Community High School of Vermont, and colleges.

(3) Funding awarded through the Vermont Internship Program may be used to administer an internship program and to provide students with a stipend during the internship, based on need. Funds may be made only to programs or projects that do all the following:

(A) do not replace or supplant existing positions;

(B) create real workplace expectations and consequences;

(C) provide a process that measures progress toward mastery of skills, attitude, behavior, and sense of responsibility required for success in that workplace;

(D) are designed to motivate and educate secondary and postsecondary students through work-based learning opportunities with Vermont employers that are likely to lead to real employment;

(E) include mechanisms that promote employer involvement with secondary and postsecondary students and curriculum and the delivery of education at the participating schools;

(F) involve Vermont employers or interns who are Vermont residents; and

(G) offer students a continuum of learning, experience, and relationships with employers that will make it financially possible and attractive for graduates to continue to work and live in Vermont.

(4) For the purposes of this section, “internship” means a learning experience working with an employer where the intern may, but does not necessarily, receive academic credit, financial remuneration, a stipend, or any combination of these.

(b) The department of labor, in collaboration with the agency of agriculture, food and markets, the department of education and state-funded

post-secondary educational institutions, the workforce development council, and other state agencies and departments that have workforce development and training monies, shall:

(1) identify new and existing funding sources that may be allocated to the Vermont internship program;

(2) collect data and establish program goals and quantifiable performance measures for internship programs funded through the Vermont internship program;

(3) develop or enhance a website that will connect students and graduates with internship opportunities with Vermont employers;

(4) engage appropriate agencies and departments of the state in the internship program to expand internship opportunities with state government and with entities awarded state contracts; and

(5) work with other public and private entities to develop and enhance internship programs, opportunities, and activities throughout the state.

#### Sec. 12. IMPLEMENTATION OF THE VERMONT INTERNSHIP

##### PROGRAM; WORKERS' COMPENSATION

(a)(1) Program costs in fiscal year 2012 for the Vermont Internship Program created in 10 V.S.A. § 544 shall be funded through an appropriation from the next generation initiative fund established in 16 V.S.A. § 2887.

(2) Funding in subsequent years shall be recommended by the department of labor, in collaboration with the agency of agriculture, food and markets, the department of education and state-funded post-secondary educational institutions, the workforce development council, and other state agencies and departments that have workforce development and training monies.

(b)(1) The state shall make available workers' compensation coverage to an intern participating in the Vermont Internship Program if coverage is required by federal or state law and the participant would not otherwise be covered by an employer's workers' compensation policy.

(2) The state shall be considered a single entity solely for purposes of purchasing a single workers' compensation insurance policy providing coverage to intern participants.

(3) This subsection is intended strictly to permit the state to provide workers' compensation coverage, and the state shall not be considered the employer of an intern participant for any other purpose.

Sec. 13. 10 V.S.A. § 543(f) is amended to read:

(f) Awards. Based on guidelines set by the council, the commissioners of labor and of education shall jointly make awards to the following:

\* \* \*

~~(2) Vermont Internship Program. Public and private entities for internship programs that match Vermont employers with students from public and private secondary schools, regional technical centers, the Community High School of Vermont, and colleges. For the purposes of this section, "internship" means a learning experience working with an employer where the intern may, but does not necessarily receive academic credit, financial remuneration, a stipend, or any combination of these. Awards under this subdivision may be used to fund the cost of administering an internship program and to provide students with a stipend during the internship, based on need. Awards may be made only to programs or projects that do all the following:~~

~~(A) do not replace or supplant existing positions;~~

~~(B) create real workplace expectations and consequences;~~

~~(C) provide a process that measures progress toward mastery of skills, attitude, behavior, and sense of responsibility required for success in that workplace;~~

~~(D) are designed to motivate and educate secondary and postsecondary students through work based learning opportunities with Vermont employers that are likely to lead to real employment;~~

~~(E) include mechanisms that promote employer involvement with secondary and postsecondary students and curriculum and the delivery of education at the participating schools;~~

~~(F) involve Vermont employers or interns who are Vermont residents;~~  
and

~~(G) offer students a continuum of learning, experience, and relationships with employers that will make it financially possible and attractive for graduates to continue to work and live in Vermont. Funding for eligible internship programs and activities under the Vermont Internship Program established in section 544 of this section.~~

Sec. 14. [RESERVED]

\* \* \* Entrepreneurship; Creative Economy \* \* \*

Sec. 15. 3 V.S.A. § 2471c is added read:

§ 2471c. OFFICE OF CREATIVE ECONOMY

(a) The office of creative economy is created within the agency of commerce and community development in order to build upon the years of work and energy around creative economy initiatives in Vermont. The office shall provide business, networking, and technical support to enterprises involved with the creative economy, primarily focused on but not limited to such areas as film, new media, software development, and innovative commercial goods. The office shall work in collaboration with Vermont's private and public sectors to raise the profile and economic productivity of these activities.

(b) The office shall be administered by a director appointed by the secretary pursuant to section 2454 of this title and shall be supervised by the commissioner of the department of economic, housing and community development.

Sec. 16. REPEAL

10 V.S.A. chapter 26 (Vermont film corporation; Vermont film production incentive program) is repealed.

Sec. 17. RESERVED

Sec. 18. 11A V.S.A. § 8.20 is amended to read:

§ 8.20. MEETINGS

(a) The board of directors may hold regular or special meetings, as defined in subdivision 1.40(26) of this title, in or outside this state.

(b) The board of directors may permit any or all directors to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication, including an electronic, telecommunications, and video- or audio-conferencing conference telephone call, by which all directors participating may simultaneously or sequentially communicate with each other during the meeting. A director participating in a meeting by this means is deemed to be present in person at the meeting.

Sec. 19. 11B V.S.A. § 8.20 is amended to read:

§ 8.20. REGULAR AND SPECIAL MEETINGS

(a) If the time and place of a directors' meeting is fixed by the bylaws or the board, the meeting is a regular meeting. All other meetings are special meetings.

(b) A board of directors may hold regular or special meetings in or out of this state.

(c) Unless the articles of incorporation or bylaws provide otherwise, a



board may permit any or all directors to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication, including an electronic, telecommunications, and video- or audio-conferencing conference telephone call, by which all directors participating may simultaneously or sequentially communicate with each other during the meeting. A director participating in a meeting by this means is deemed to be present in person at the meeting.

\* \* \* Finance; Access to Capital \* \* \*

Sec. 20. 8 V.S.A. § 12603 is amended to read:

§ 12603. MERCHANT BANKS

\* \* \*

(f) The minimum amount of initial capital for a merchant bank is ~~\$10,000,000.00~~ \$1,000,000.00, all of which ~~at least \$5,000,000.00~~ shall be common stock or equity interest in the merchant bank. ~~The balance may be composed of qualifying subordinated or similar debt~~ A merchant bank may use qualified subordinated debt or senior debt as part of its capital structure above \$1,000,000.00, provided that the amount of subordinated debt or senior debt used as capital above \$1,000,000.00 is not greater than the amount of common stock or equity interest used as capital above \$1,000,000.00. The commissioner, in his or her discretion, may increase the minimum capital required for a merchant bank.

\* \* \*

(m) Any acquisition or change in control of ~~five~~ ten percent or more of the common stock or equity interests in a merchant bank shall be subject to the prior approval by the commissioner. The acquiring person shall file an application with the commissioner for approval. The application shall be subject to the provisions of subchapter 7 of chapter 201 of this title.

(n) The commissioner ~~may~~ shall examine the merchant bank and any person who controls it to the extent necessary to determine the soundness and viability of the merchant bank in the same manner as required by subchapter 5 of chapter 201 of this title.

(o) A merchant bank shall include on all its advertising a prominent disclosure that deposits are not accepted by a merchant bank.

(p) For purposes of this section, "control" means that a person:

(1) directly, indirectly, or acting through another person owns, controls, or has power to vote ten percent or more of any class of equity interest of the merchant bank;

(2) controls in any manner the election of a majority of the directors of the merchant bank; or

(3) directly or indirectly exercises a controlling influence over the management or policies of the merchant bank.

Sec. 21. 10 V.S.A. chapter 3 is added to read:

### CHAPTER 3. EB-5 INVESTMENT

#### § 21. EB-5 ENTERPRISE FUND

(a) An EB-5 enterprise fund is created for the operation of the state of Vermont EB-5 visa regional development center. The fund shall consist of revenues derived from fees charged by the agency of commerce and community development pursuant to subsection (c) of this section, any interest earned by the fund, and all sums which are from time to time appropriated for the support of the regional development center and its operations.

(b) The receipt and expenditure of moneys from the enterprise fund shall be under the supervision of the secretary of commerce and community development. The secretary shall maintain accurate and complete records of all receipts and expenditures by and from the fund, and shall make an annual report on the condition of the fund to the secretary of administration, the house committees on commerce and on ways and means, and the senate committees on finance and on economic development, housing and general affairs.

(c) Notwithstanding 32 V.S.A. chapter 7, subchapter 6, the secretary of commerce and community development is authorized to impose an administrative fee for services provided by the agency to investors in administering the state of Vermont EB-5 visa regional development center.

Sec. 22. [RESERVED]

Sec. 23. [RESERVED]

\* \* \* Housing and Development \* \* \*

Sec. 24. 24 V.S.A. § 2793d is amended to read:

#### § 2793d. DESIGNATION OF VERMONT NEIGHBORHOODS

(a) A The Vermont downtown development board may designate a Vermont neighborhood in a municipality that has a duly adopted and approved plan and a planning process that is confirmed in accordance with section 4350 of this title, has adopted zoning bylaws and subdivision regulations in accordance with section 4442 of this title, and has a designated downtown district, a designated village center, a designated new town center, or a designated growth center served by municipal sewer infrastructure or a

community or alternative wastewater system approved by the agency of natural resources, ~~is authorized to apply for designation of a Vermont neighborhood.~~ An application for designation may be made by a municipality or by a landowner who meets the criteria under subsection (f) of this section. A municipal decision to apply for designation shall be made by the municipal legislative body after at least one duly warned public hearing. An application by a municipality or a landowner shall be made after at least one duly warned public hearing by the legislative body. If the application is submitted by a landowner, the public hearing shall be a joint public hearing of the municipal legislative body and the appropriate municipal panel, and shall be held concurrently with the local permitting process. Designation is possible in two different situations:

(1) Per se approval. If a municipality or landowner submits an application in compliance with this subsection for a designated Vermont neighborhood that would have boundaries that are entirely within the boundaries of a designated downtown district, designated village center, designated new town center, or designated growth center, the downtown board shall issue the designation.

(2) Designation by downtown board in towns without growth centers. If an application is submitted in compliance with this subsection by a municipality or a landowner in a municipality that does not have a designated growth center and proposes to create a Vermont neighborhood that has boundaries that include land that is not within its designated downtown, village center, or new town center, the downtown board shall consider the application. This application may be for approval of one or more Vermont neighborhoods that are outside but contiguous to a designated downtown district, village center, or new town center. The application for designation shall include a map of the boundaries of the proposed Vermont neighborhood, including the property outside but contiguous to a designated downtown district, village center, or new town center and verification that the municipality or landowner has notified the regional planning commission and the regional development corporation of its application for this designation.

\* \* \*

(f) If a municipality has not adopted either the minimum density requirements or design standards set out in subdivision (c)(5) of this section in its zoning bylaw, a landowner within a proposed Vermont neighborhood may apply to the downtown board for designation of a Vermont neighborhood that meets the standards set out in subdivision (c)(5) of this section by submitting:

(1) a copy of the plans and necessary municipal permits obtained for a project; and

(2) a letter of support for the project issued to the landowner from the municipality within 30 days of the effective date of a final municipal permit.

Sec. 25. 27A V.S.A. § 1-209 is amended to read:

§ 1-209. SMALL CONDOMINIUMS; EXCEPTION

~~A condominium that will contain no more than 12 units and is not subject to any development rights, unless the declaration provides that the entire act is applicable, shall not be subject to subsection~~ Subsection 2-101(b), subdivisions 2-109(b)(2) and (11), subsection 2-109(g), section 2-115, and Article 4 of this title shall not apply to a condominium if the declaration:

(1) creates fewer than ten units; and

(2) restricts ownership of a unit to entities that are controlled by, affiliated with, or managed by the declarant.

Sec. 26. REPEAL

Sec. 12 of No. 155 of the Acts of the 2009 Adj. Sess. (2010) (repeal of 27A V.S.A. § 1-209, effective January 1, 2012) is repealed.

Sec. 27. [RESERVED]

Sec. 28. [RESERVED]

\* \* \* Economic Development Planning \* \* \*

Sec. 29. 3 V.S.A. § 2293 is amended to read:

§ 2293. DEVELOPMENT CABINET

(a) Legislative purpose. The general assembly deems it prudent to establish a permanent and formal mechanism to assure collaboration and consultation among state agencies and departments, in order to support and encourage Vermont's economic development, while at the same time conserving and promoting Vermont's traditional settlement patterns, its working and rural landscape, its strong communities, and its healthy environment, all in a manner set forth in this section.

(b) Development cabinet. A development cabinet is created, to consist of the secretaries of the agencies of administration, of natural resources, of commerce and community affairs, and of transportation, and the secretary of the agency of agriculture, food and markets. The governor or the governor's designee shall chair the development cabinet. The development cabinet shall advise the governor on how best to implement the purposes of this section, and shall recommend changes as appropriate to improve implementation of those purposes. The development cabinet may establish interagency work groups to support its mission, drawing membership from any agency or department of

state government.

(c) All state agencies that have programs or take actions affecting land use, including those identified under 3 V.S.A. chapter 67, shall, through or in conjunction with the members of the development cabinet:

(1) Support conservation of working lands and open spaces.

(2) Strengthen agricultural and forest product economies, and encourage the diversification of these industries.

(3) Develop and implement plans to educate the public by encouraging discussion at the local level about the impacts of poorly designed growth, and support local efforts to enhance and encourage development and economic growth in the state's existing towns and villages.

(4) Administer tax credits, loans, and grants for water, sewer, housing, schools, transportation, and other community or industrial infrastructure, in a manner consistent with the purposes of this section.

(5) To the extent possible, endeavor to make the expenditure of state appropriations consistent with the purposes of this section.

(6) Encourage development in, and work to revitalize, land and buildings in existing village and urban centers, including "brownfields," housing stock, and vacant or underutilized development zones. Each agency is to set meaningful and quantifiable benchmarks.

(7) Encourage communities to approve settlement patterns based on maintaining the state's compact villages, open spaces, working landscapes, and rural countryside.

(8) Encourage relatively intensive residential development close to resources such as schools, shops, and community centers and make infrastructure investments to support this pattern.

(9) Support recreational opportunities that build on Vermont's outstanding natural resources, and encourage public access for activities such as boating, hiking, fishing, skiing, hunting, and snowmobiling. Support and work collaboratively to make possible sound development and well-planned growth in existing recreational infrastructure.

(10) Provide means and opportunity for downtown housing for mixed social and income groups in each community.

(11) ~~Report annually to the governor and the legislature, through the chair of the development cabinet and the secretary of administration, on the effectiveness and impact of this section on the state's economic growth and land use development and the activities of the council of regional~~

~~commissions.~~

(12) Encourage timely and efficient processing of permit applications affecting land use, including 10 V.S.A. chapter 151 and the subdivision regulations adopted under 18 V.S.A. § 1218, in order to encourage the development of affordable housing and small business expansion, while protecting Vermont's natural resources.

(13) Participate in creating a long-term economic development plan, including making available the members of any agency or department of state government as necessary and appropriate to support the mission of an interagency work group established under subsection (b) of this section.

(d)(1) Pursuant to the recommendations of the oversight panel on economic development created in Section G6 of No. 146 of the Acts of the 2009 Adj. Sess. (2010), the development cabinet shall create an interagency work group as provided in subsection (b) of this section with the secretary of commerce and community development serving as its chair.

(2) The mission of the work group shall be to develop a long-term economic development plan for the state, which shall identify goals and recommend actions to be taken over ten years, and which shall be consistent with the four goals of economic development identified in 10 V.S.A. § 3 and the outcomes for economic development identified in Sec. 8 of No. 68 of the Acts of the 2009 Adj. Sess. (2010).

(e)(1) On or before January 15, 2014, and every two years thereafter, the development cabinet or its workgroup shall complete a long-term economic development plan as required under subsection (d) of this section and recommend it to the governor.

(2) Commencing with the plan due on or before January 15, 2016, the development cabinet or its workgroup may elect only to prepare and recommend to the governor an update of the long-term economic development plan.

(3) Administrative support for the economic development planning efforts of the development cabinet or its workgroup shall be provided by the agency of commerce and community development.

~~(d)~~(f) Limitations. This cabinet is strictly an information gathering and coordinating cabinet and confers no additional enforcement powers.

Sec. 30. 24 V.S.A. chapter 117 is amended to read:

CHAPTER 117. MUNICIPAL AND REGIONAL PLANNING  
AND DEVELOPMENT

\* \* \*

§ 4345a. DUTIES OF REGIONAL PLANNING COMMISSIONS

A regional planning commission created under this chapter shall:

\* \* \*

(9) At least once every ~~eight~~ five years, review the compatibility of municipal plans, and if the regional planning commission finds that growth in a municipality without an approved plan is adversely affecting an adjoining municipality, it shall notify the legislative body of both municipalities of that fact and shall urge that the municipal planning be undertaken to mitigate those adverse effects. If, within six months of receipt of this notice, the municipality creating the adverse effects does not have an approved municipal plan, the regional commission shall adopt appropriate amendments to the regional plan as it may deem appropriate to mitigate those adverse effects.

\* \* \*

§ 4348a. ELEMENTS OF A REGIONAL PLAN

(a) A regional plan shall be consistent with the goals established in section 4302 of this title and shall include but need not be limited to the following:

\* \* \*

(10) An economic development element that describes present economic conditions and the location, type, and scale of desired economic development, and identifies policies, projects, and programs necessary to foster economic growth.

\* \* \*

§ 4348b. READOPTION OF REGIONAL PLANS

(a) Unless they are readopted, all regional plans, including all prior amendments, shall expire every ~~eight~~ five years.

(b)(1) A regional plan that has expired or is about to expire may be readopted as provided under section 4348 of this title for the adoption of a regional plan or amendment. Prior to any readoption, the regional planning commission shall ~~review and update the information on which the plan is based, and shall consider this information in evaluating the continuing applicability of the regional plan~~ prepare an assessment report which shall be a part of the readopted regional plan and shall detail the continuing applicability of the regional plan. The assessment report shall include:

(A) the extent to which the plan has been implemented since adoption or readoption;

(B) an evaluation of the goals and policies and any amendments necessary due to changing conditions of the region;

(C) an evaluation of the land use element and any amendments necessary to reflect changes in land use within the region or changes to regional goals and policies;

(D) priorities for implementation in the next five years; and

(E) updates to information and data necessary to support goals and policies.

(2) The readopted plan shall remain in effect for the ensuing ~~eight~~ five years unless earlier readopted.

(c) Upon the expiration of a regional plan under this section, the regional plan shall be of no further effect in any other proceeding.

\* \* \*

#### § 4350. REVIEW AND CONSULTATION REGARDING MUNICIPAL PLANNING EFFORT

(a) ~~A~~ As provided in subdivisions 4345a(8) and (9) of this chapter, a regional planning commission shall consult with its municipalities with respect to the municipalities' planning efforts, ascertaining the municipalities' needs as individual municipalities and as neighbors in a region, assessing the compatibility of municipal plans, and identifying the assistance that ought to be provided by the regional planning commission. As a part of this consultation, the regional planning commission, after public notice, shall review the planning process of its member municipalities at least twice during a eight-year period, or more frequently on request of the municipality, and shall so confirm when a municipality:

(1) is engaged in a continuing planning process that, within a reasonable time, will result in a plan which is consistent with the goals contained in section 4302 of this title; and

(2) is maintaining its efforts to provide local funds for municipal and regional planning purposes.

~~(b)(4)~~ As part of the consultation process, the commission shall consider whether a municipality has adopted a plan. In order to obtain or retain confirmation of the planning process ~~after January 1, 1996~~, a municipality must have an approved plan. A regional planning commission shall review and approve plans and plan amendments of its member municipalities, when approval is requested and warranted. Each review shall include a public hearing which is noticed at least 15 days in advance by posting in the office of



the municipal clerk and at least one public place within the municipality and by publication in a newspaper or newspapers of general publication in the region affected. The commission shall approve a plan if it finds that the plan:

~~(A)~~(1) is consistent with the goals established in section 4302 of this title;

~~(B)~~(2) is compatible with its regional plan;

~~(C)~~(3) is compatible with approved plans of other municipalities in the region; and

~~(D)~~(4) contains all the elements included in subdivisions 4382(a)(1)-(10) of this title.

~~(2) Prior to January 1, 1996, if a plan contains all the elements required by subdivisions 4382(a)(1) (10) and is submitted to the regional planning commission for approval but is not approved, it shall be conditionally approved.~~

(c) A commission shall give approval or disapproval to a municipal plan or amendment within two months of its receipt following a final hearing held pursuant to section 4385 of this title. The fact that the plan is approved after the deadline shall not invalidate the plan. If the commission disapproves the plan or amendment, it shall state its reasons in writing and, if appropriate, suggest acceptable modifications. Submissions for approval that follow a disapproval shall receive approval or disapproval within 45 days.

(d) The commission shall file any adopted plan or amendment with the department of economic, housing and community development within two weeks of receipt from the municipality. Failure on the part of the commission to file the plan shall not invalidate the plan.

(e) During the period of time when a municipal planning process is confirmed:

(1) The municipality's plan will not be subject to review by the commissioner of department of economic, housing and community development under section 4351 of this title.

(2) State agency plans adopted under chapter 67 of Title 3 shall be compatible with the municipality's approved plan. ~~This provision shall not apply to plans that are conditionally approved under this chapter.~~

(3) The municipality may levy impact fees on new development within its borders, according to the provisions of chapter 131 of this title.

(4) The municipality shall be eligible to receive additional funds from the municipal and regional planning fund.

(f) Confirmation and approval decisions under this section shall be made by majority vote of the commissioners representing municipalities, in accordance with the bylaws of the regional planning commission.

\* \* \*

#### § 4382. THE PLAN FOR A MUNICIPALITY

(a) A plan for a municipality may be consistent with the goals established in section 4302 of this title and compatible with approved plans of other municipalities in the region and with the regional plan and shall include the following:

\* \* \*

(11) An economic development element that describes present economic conditions and the location, type, and scale of desired economic development, and identifies policies, projects, and programs necessary to foster economic growth.

\* \* \*

#### § 4387. READOPTION OF PLANS

(a) All plans, including all prior amendments, shall expire every five years unless they are readopted according to the procedures in ~~section~~ sections 4384 and 4385 of this title.

(b)(1) A municipality may readopt any plan that has expired or is about to expire. Prior to any readoption, the planning commission shall ~~review and update the information on which the plan is based, and shall consider this information in evaluating the continuing applicability of the plan~~ prepare an assessment report which shall be a part of the readopted municipal plan and shall detail the continuing applicability of the municipal plan. The assessment report shall include:

(A) the extent to which the plan has been implemented since adoption or readoption;

(B) an evaluation of the goals and policies and any amendments necessary due to changing conditions of the municipality;

(C) an evaluation of the land use element and any amendments necessary to reflect changes in land use within the municipality or changes to municipal goals and policies;

(D) priorities for implementation in the next five years; and

(E) updates to information and data necessary to support goals and policies.

(2) The readopted plan shall remain in effect for the ensuing five years unless earlier readopted. A municipality may amend any section of a plan at any time within five years prior to expiration in light of new developments and changed conditions affecting the municipality.

(c) Upon the expiration of a plan, all bylaws ~~and~~, capital budgets, and programs then in effect shall remain in effect, but shall not be amended until a plan is in effect.

(d) The fact that a plan has not been approved shall not make it inapplicable, except as specifically provided by this chapter. Bylaws, capital budgets, and programs shall remain in effect, even if the plan has not been approved.

\* \* \*

### Sec. 31. REGIONAL DEVELOPMENT CABINETS

(a) The regional planning commission and any regional development corporation providing services within the regional planning commission region shall convene regular meetings of a “regional development cabinet,” which shall include representation from the leadership of state and local providers of services within the region in the areas of planning, economic development, workforce training, utilities and physical infrastructure, transportation, and any other service areas as appropriate.

(b) Each regional development cabinet, in coordination with the agency of commerce and community development and municipal leaders as necessary, shall develop regional priorities to coordinate streamlined and efficient delivery of services, and to enable local, regional, and state agencies to better focus resources.

Secs. 32-34. [RESERVED]

\* \* \* Agriculture; Vermont Sustainable Jobs Fund \* \* \*

Sec. 35. 10 V.S.A. § 328 is amended to read:

### § 328. CREATION OF THE SUSTAINABLE JOBS FUND PROGRAM

\* \* \*

(c)(1) Notwithstanding the provisions of subdivision 216(14) of this title, the authority may contribute not more than \$1,000,000.00 to the capital of the corporation formed under this section, and the board of directors of the corporation formed under this section shall consist of ~~three members of the authority designated by the authority, the secretary of commerce and community development, and seven members who are not officials or employees of a governmental agency appointed by the governor, with the~~

~~advice and consent of the senate, for terms of five years, except that the governor shall stagger initial appointments so that the terms of no more than two members expire during a calendar year;~~

(A) the secretary of commerce and community development or his or her designee;

(B) the secretary of agriculture, food and markets or his or her designee;

(C) a director appointed by the governor; and

(D) eight independent directors, no more than two of whom shall be state government employees or officials, and who shall be selected as vacancies occur by vote of the existing directors from a list of names offered by a nominating committee of the board created for that purpose.

(2)(A) Each independent director shall serve a term of three years or until his or her earlier resignation.

(B) A director may be reappointed, but no independent director and no director appointed by the governor shall serve for more than three terms.

(C) The director appointed by the governor shall serve at the pleasure of the governor and may be removed at any time with or without cause.

(3) A director of the board who is or is appointed by a state government official or employee shall not be eligible to hold the position of chair, vice chair, secretary, or treasurer of the board.

\* \* \*

#### Sec. 36. VERMONT SUSTAINABLE JOBS FUND BOARD OF DIRECTORS; TRANSITION

Notwithstanding any other provision of law to the contrary, and notwithstanding any provision of the articles of incorporation or the bylaws of the corporation:

(1) The chair, vice chair, and secretary of the Vermont sustainable jobs fund board of directors as of January 1, 2011 shall constitute an initial nominating committee charged with appointing eight independent directors who shall take office on July 1, 2011.

(2) The initial nominating committee shall appoint each independent director to serve a term of one, two, or three years. Independent director terms shall be staggered so that the terms of no more than three members expire during a calendar year.

(3) The terms of the directors in office on the date of passage of this act shall expire on July 1, 2011.

Sec. 37. REPEAL

Secs. G18 and G19 of No. 146 of the Acts of the 2009 Adj. Sess. (2010) are repealed.

Sec. 38. Sec. G28 of No. 146 of the Acts of the 2009 Adj. Sess. (2010) is amended to read:

Sec. G28. EFFECTIVE DATES

Secs. G1 through G28 of this act (economic development) shall take effect upon passage, ~~except that Secs. G18 and G19 (Vermont sustainable jobs~~

~~(A) Secs. G18 and G19 (Vermont sustainable job fund program) shall take effect upon the cessation of state funding to the program from the general fund.~~

Sec. 39. 6 V.S.A. § 20 is amended to read:

§ 20. VERMONT LARGE ANIMAL VETERINARIAN EDUCATIONAL  
LOAN REPAYMENT FUND

(a) There is created a special fund to be known as the Vermont large animal veterinarian educational loan repayment fund that shall be used for the purpose of ensuring a stable and adequate supply of large animal veterinarians ~~throughout~~ in regions of the state as determined by the secretary. The fund shall be established and held separate and apart from any other funds or monies of the state and shall be used and administered exclusively for the purpose of this section. The money in the fund shall be invested in the same manner as permitted for investment of funds belonging to the state or held in the treasury.

\* \* \*

Sec. 40. 6 V.S.A. chapter 207 is amended to read:

CHAPTER 207. ~~STATE AGENCIES AND STATE FUNDED INSTITUTIONS TO PURCHASE PROMOTION AND MARKETING OF VERMONT FOODS AND PRODUCTS~~

\* \* \*

§ 4602. GOOD AGRICULTURAL PRACTICES GRANT PROGRAM

1) (a) A good agricultural practices grant program (GAP) is established in the agency of agriculture, food and markets for the purpose of providing matching grant funds to agricultural producers whose markets require them to obtain or maintain GAP certification.

(b) The secretary may award matching grants for capital upgrades that will support Vermont agricultural producers in obtaining GAP certification. The amount of matching funds required by an applicant for a GAP certification grant shall be determined by the secretary.

(c) An applicant may receive no more than 10 percent of the total funds appropriated for the program in a fiscal year.

Sec. 41. 6 V.S.A. § 3319 is added to read:

§ 3319. SKILLED MEAT CUTTER APPRENTICESHIP PROGRAM

2) (a) A skilled meat cutter apprenticeship program is established in the agency of agriculture, food and markets for the purpose of issuing a competitively awarded grant to develop, in consultation with slaughterhouse operators, meat processors, chefs, livestock farmers, and others, an apprenticeship or certificate program or both for the occupation of skilled meat cutter.

(b) The secretary shall make a single grant to the successful applicant for the creation and administration of an employment-based learning program with classroom and on-the-job training components.

Sec. 42. 6 V.S.A. § 4724 is added to chapter 211 to read:

§ 4724. LOCAL FOODS COORDINATOR

3) (a) The position of local food coordinator is established in the agency of agriculture, food and markets for the purpose of assisting Vermont producers to increase their access to commercial markets and institutions, including schools, state and municipal governments, and hospitals.

(b) The duties of the local foods coordinator shall include:

(1) working with institutions, distributors, producers, commercial markets, and others to create matchmaking opportunities that increase the number of Vermont institutions that purchase foods grown or produced in Vermont;

(2) coordinating funding and providing support to the farm-to-school and farm-to-institutions programs within the agency of agriculture, food and markets, and coordinating with interested parties to create matchmaking opportunities that increase participation in those programs;

(3) working with the department of buildings and general services to encourage the enrollment of state employees in a local community supported agriculture (CSA) organization; and

(4) providing technical support to local communities with their food security efforts.

(c) For purposes of this section, and notwithstanding 29 V.S.A. § 5, the commissioner of buildings and general services and the agency of agriculture, food and markets may authorize the advertisement or solicitation on state property of one or more local CSA organizations, subject to reasonable restrictions collaboratively adopted by the commissioner and the secretary on the time, manner, and location of such advertisements or solicitations, in order to encourage and enable state employees to enroll in a CSA.

#### Sec. 43. FARM-TO-PLATE INVESTMENT PROGRAM

##### IMPLEMENTATION

(a)(1) The agency of agriculture, food and markets shall coordinate with the Vermont sustainable jobs fund program established under 10 V.S.A. § 328, stakeholders, and other interested parties, including the agriculture development board, to implement actions necessary to fulfill the goals of the farm-to-plate investment program as established under 10 V.S.A. § 330.

(2) The actions shall be guided by, but not limited to, the strategies outlined in the farm-to-plate strategic plan.

(3) The agency shall develop and maintain a report of the actions undertaken to achieve the goals of the farm-to-plate investment program and the farm-to-plate strategic plan.

(b) The secretary of agriculture, food and markets may contract with a third party to assist the agency with implementation of the program, to track those activities over time, and to develop a report on the progress of the program.

Secs. 44-49. [RESERVED]

#### Sec. 50. REPORTING

On or before January 15, 2012, the agency of commerce and community development shall coordinate with each agency, department, or outside entity charged with oversight or implementation of a program or policy change in this act and submit in its annual report to the house committees on commerce and economic development and on agriculture, and to the senate committees on economic development, housing and general affairs and on agriculture:

(1) a performance analysis of each program or policy change following passage of this act; and

(2) recommendations for future actions in light of performance relative to the intended outcomes for each program or policy change.

Sec. 51. EFFECTIVE DATE

This act shall take effect on passage.

**(Committee Vote: 9-1-1)**

**Rep. Condon of Colchester**, for the Committee on **Ways and Means**, recommends the bill ought to pass when amended as recommended by the Committee on **Commerce and Economic Development** and when further amended as follows:

First: In Sec. 21, in 10 V.S.A. § 21(c), following the word “fee” by inserting “, not to exceed \$2,500.00.”

Second: By adding a Sec. 22 to read:

Sec. 22. EB-5 ENTERPRISE FUND FEE

On or before January 15, 2012, the secretary of commerce and community development shall submit a memorandum to the house committee on ways and means and the senate committee on finance concerning the performance of the EB-5 enterprise fund, including the number of projects and investors served, the amount of the fees imposed and collected, and recommendations concerning the EB-5 enterprise fund and the appropriate fee structure for the program.

Third: By striking Sec. 50 in its entirety and adding a new Sec. 50 to read:

Sec. 50. REPORTING

On or before January 15, 2012, the agency of commerce and community development shall coordinate with each agency, department, or outside entity charged with oversight or implementation of a program or policy change in this act and submit in its annual report to the house committees on commerce and economic development and on agriculture, and to the senate committees on economic development, housing and general affairs and on agriculture:

(1) a performance analysis of each program or policy change following passage of this act;

(2) an analysis of the number of private sector jobs created as a result of each program or policy in this act that has a direct financial impact to the state;

(3) an analysis of each program or policy in this act and the proportion of opportunities distributed to each gender; and

(4) recommendations for future actions in light of performance relative to the intended outcomes for each program or policy change.

**( Committee Vote: 10-0-1)**



**Rep. Manwaring of Wilmington**, for the Committee on **Appropriations**, recommends the bill ought to pass when amended as recommended by the Committee on **Commerce and Economic Development and Ways and Means** and when further amended as follows:

First: In Sec 1, by striking subdivision (b)(1) in its entirety and inserting a new subdivision (b)(1) to read:

(1) A qualified taxpayer and an eligible new employer shall each be eligible to receive an incentive equal to \$500.00 for each full-time employee of an eligible new employer hired on or before December 31, 2012. Incentive awards shall be made in the order in which they are claimed, as determined by the secretary in his or her discretion, not to exceed \$5,000.00 per recipient per year, and not to exceed a total program cap of \$50,000.00.

Second: In Sec. 6, by striking subdivision (b)(4) in its entirety and inserting in lieu thereof a new subdivision (b)(4) to read:

(4) The secretary shall award up to a maximum of \$75,000.00 per year for incentives in accordance with this section, which shall be made in the order in which they are claimed, as determined by the secretary in his or her discretion, and not to exceed a total program cap of \$375,000.00.

Third: In Sec. 7, by striking subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read:

(b) A qualified employer who hires a qualified long-term unemployed Vermonter on or before December 31, 2012 shall be eligible to receive a hiring incentive one year after the employee's date of hire in the amount of \$500.00 per employee. Incentive awards shall be made in the order in which they are claimed, as determined by the commissioner in his or her discretion, not to exceed \$5,000.00 per recipient per year, and not to exceed a total program cap of \$25,000.00.

Fourth: By adding a Sec. 49 to read:

Sec. 49. APPROPRIATIONS AND ALLOCATIONS

(a) Appropriations. In fiscal year 2012:

(1) The amount of \$25,000.00 is appropriated from the general fund to the department of labor for the long-term unemployed hiring incentive in Sec. 7 of this act.

(2) The amount of \$500,000.00 is appropriated from the general fund to the agency of agriculture, food and markets as follows:

(A) \$100,000.00 for the good agricultural practices grant program in Sec. 40 of this act.

(B) \$25,000.00 for the skilled meat cutter apprenticeship program in Sec. 41 of this act.

(C) \$125,000.00 for one full-time position of local foods coordinator and the activities associated with his or her position under 6 V.S.A. § 4724 in Sec. 42 of this act.

(D) \$100,000.00 for implementation of the farm-to-plate investment program in Sec. 43 of this act.

(E) \$75,000.00 for competitive matching grants for the farm-to-school program established in 6 V.S.A. § 4721.

(F) \$50,000.00 for competitive matching grants to increase slaughterhouse and meat processing facility capacity.

(G) \$25,000.00 for travel funds for agency personnel to participate in the legislative process for the federal farm bill.

(b) Allocations. In fiscal year 2012:

(1) From the next generation initiative fund:

(A) An amount up to \$350,000.00 shall be allocated to the Vermont internship program in Secs. 11–13 of this act.

(B) The amount of \$30,000.00 shall be allocated to the Vermont large animal veterinarian educational loan repayment fund in Sec. 39 of this act.

(C) The amount of \$57,500.00 shall be allocated to the agency of commerce and community development for the science, technology, engineering, and mathematics (STEM) incentive program in Sec. 6 of this act.

(2) Of the funds appropriated to the agency of commerce and community development the amount of \$100,000.00 shall be allocated for the office of creative economy in Secs. 15–16 of this act.

Fifth: By striking Sec. 51 in its entirety and inserting in lieu thereof a new Sec. 51 to read:

Sec. 51. EFFECTIVE DATE

This act shall take effect on passage, except that:

(1) Sec. 1 (Vermont business partner incentive) shall take effect July 1, 2011.

(2) Notwithstanding any other provision of law, no program funds shall be expended or allocated prior to July 1, 2011.

**( Committee Vote: 9-1-1)**

**Amendment to be offered by Rep. Krebs of South Hero to H. 287**

In Sec. 6, in subdivision (a)(1), following “accredited by”, by inserting “ABET, Inc.” and by inserting a comma following “association”

**Action Postponed Until March 22, 2011**

**H. 91**

An act relating to the management of fish and wildlife

(Pending Action: Report of the committee on Fish, Wildlife and Water Resources)

**NOTICE CALENDAR**

**Favorable with Amendment**

**H. 201**

An act relating to hospice and palliative care

**Rep. Frank of Underhill**, for the Committee on **Human Services**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The general assembly finds that:

(1) Despite the desire of more than 80 percent of Vermonters to die at home, 50 percent die in a hospital and 27 percent die in a nursing home. Among those enrolled in hospice, 76 percent die at home. Doing an improved job in helping Vermonters to remain at home would better meet their desires.

(2) Current medical technology allows very ill patients to be kept alive far longer than was the case in the past.

(3) On average nationally, patients spend only two weeks in hospice care when they could benefit from much earlier referrals. Vermont has one of the lowest utilization rates of hospice in the country. In Vermont, per capita spending on hospice care by Medicare is well below the national average.

(4) Good palliative and hospice care is available in Vermont, but a better system needs to be in place to ensure access to that care. Financial pressures or insurance limitations sometimes contribute to the lack of access to palliative and hospice care.

(5) Hospice care helps to meet the needs of patients with advanced illness by providing palliative care, including effective pain and symptom management, as well as support for the emotional and spiritual needs of

patients and their caregivers. Hospice care allows patients to have a greater sense of control at the end of life.

(6) Presently, hospice care is limited to a patient with a physician certification of an illness with a prognosis of not more than six months' life expectancy. That patient must choose between curative and hospice care. Because individuals cannot receive both at the same time, they must forgo curative care to be eligible for hospice.

(7) When hospice benefits are extended from a six-month to a 12-month end-of-life prognosis and a patient can access treatment without being required to first discontinue curative therapy, a higher proportion of patients select hospice care. This results in significant increases in the use of hospice services and a decrease in the use of acute care services. Net medical costs have been shown to decrease by as much as 30 percent, and many patients live longer with a better quality of life and a dramatic increase in patient satisfaction.

(8) A national health insurance company has extended to all its members an "enhanced hospice access" benefit, whereby the definition of "terminal illness" is expanded from six months' life expectancy to 12 months, and members may access hospice without being required to first discontinue curative therapy because of the demonstrated effectiveness of the company's pilot project.

(9) Vermont is one of only six states that does not require any continuing medical education as a condition of physician licensure or renewal and health care professionals in Vermont lack sufficient education and training in the areas of end-of-life-care, palliative care, and pain management.

(10) In order to ensure continuity of care and seamless transitions between settings, the Clinician Order for Life Sustaining Treatment (COLST) form along with Do Not Resuscitate (DNR) orders should be standardized for all health care providers in the state.

\* \* \* Enhanced Hospice Benefit \* \* \*

## Sec. 2. ENHANCED HOSPICE BENEFIT

(a) A health insurer operating in Vermont is encouraged to offer, issue, and administer a health insurance plan that provides insurance coverage for a terminal care management program and an "enhanced hospice access" benefit.

(b) The terminal care management program should include:

(1) nurse case managers trained to manage the care of patients with terminal illness;

(2) cases identified proactively through evaluation of hospitalizations, claims, and referrals; and

(3) a comprehensive assessment of a patient's needs.

(c) Under the "enhanced hospice access" benefit, the definition of "terminal illness" should be expanded from six months' life expectancy to 12 months, and members may access hospice without being required to first discontinue curative therapy.

(d) As used in this section, "health insurance plan" means any individual or group health insurance policy, any hospital or medical service corporation or health maintenance organization subscriber contract, or any other health benefit plan offered, issued, or renewed for any person in this state by a health insurer, as defined in 18 V.S.A. § 9402. The term shall include the health benefit plan offered by the state of Vermont to its employees and any health benefit plan offered by any agency or instrumentality of the state to its employees. The term shall not include benefit plans providing coverage for specific disease or other limited benefit coverage unless so directed by the commissioner.

\* \* \* Request for a Waiver \* \* \*

### Sec. 3. REQUEST FOR A WAIVER

The department of Vermont health access shall request and apply for a demonstration project or waiver from the Centers for Medicare and Medicaid Services to allow for the state to obtain federal Medicaid matching funds to provide for an "enhanced hospice access" benefit, whereby the definition of "terminal illness" is expanded from six months' life expectancy to 12 months, and participants may access hospice without being required to first discontinue curative therapy.

\* \* \* Choices for Care \* \* \*

### Sec. 4. ENROLLMENT IN HOSPICE AND APPLICATION TO CHOICES FOR CARE

(a) The department of disabilities, aging, and independent living shall revise its current policy to:

(1) allow individuals who have been admitted to hospice to apply for Choices for Care; and

(2) ensure that individuals who have been admitted to hospice are treated no differently from those individuals who first become enrolled in Choices for Care and then later are admitted to hospice.

(b) The revised policy set forth in subdivisions (a)(1) and (2) of this section will be for a one-year trial period beginning July, 1, 2011, and ending June 30, 2012.

(c) To assess the revised policy, the department of disabilities, aging, and independent living, with the Assembly of Home Health Agencies, Inc., shall develop mutually agreed-upon evaluative measures, including:

(1) the number of patients receiving hospice services;

(2) the number of patients receiving both hospice and Choices for Care;

(3) the fiscal implications of the change in policy;

(4) length of stay on hospice;

(5) length of stay in Choices for Care;

(6) the length of time to obtain Choices for Care services once the application process is initiated; and

(7) the number of patients found ineligible for Choices for Care.

(d) The department of disabilities, aging, and independent living shall provide the house committee on human services and the senate committee on health and welfare with an interim report on the utilization and effectiveness of the revised policy by no later than January 31, 2012.

\* \* \* Inclusion of Palliative Care, Hospice, and End-of-Life Pain  
Management in the Blueprint for Health \* \* \*

Sec. 5. 18 V.S.A. § 701 is amended to read:

#### § 701. DEFINITIONS

For the purposes of this chapter:

(1) “Blueprint for Health” or “Blueprint” means the state’s program for integrating a system of health care for patients, improving the health of the overall population, and improving control over health care costs by promoting health maintenance, prevention, and care coordination and management.

(2) “Chronic care” means health services provided by a health care professional for an established clinical condition that is expected to last a year or more and that requires ongoing clinical management attempting to restore the individual to highest function, minimize the negative effects of the condition, prevent complications related to chronic conditions, engage in advanced care planning, and promote appropriate access to palliative care and pain and symptom management. Examples of chronic conditions include diabetes, hypertension, cardiovascular disease, cancer, asthma, pulmonary

disease, substance abuse, mental illness, spinal cord injury, hyperlipidemia, dementia, and chronic pain.

(3) “Chronic care information system” means the electronic database developed under the Blueprint for Health that shall include information on all cases of a particular disease or health condition in a defined population of individuals.

(4) “Chronic care management” means a system of coordinated health care interventions and communications for individuals with chronic conditions, including significant patient self-care efforts, systemic supports for licensed health care practitioners and their patients, and a plan of care emphasizing, on an ongoing basis and with the goals of improving overall health and meeting patients’ needs:

(A) prevention of complications utilizing evidence-based practice guidelines;

(B) patient empowerment strategies, ~~and~~;

(C) evaluation of clinical, humanistic, and economic outcomes ~~on an ongoing basis with the goal of improving overall health;~~ and

(D) advance care planning, palliative care, pain management, and hospice services, as appropriate.

\* \* \*

Sec. 6. 18 V.S.A. § 703(d) is amended to read:

(d) The model for care coordination and management shall include the following components:

\* \* \*

(5) Education for patients on health care decision-making, including education related to advance directives, palliative care, and hospice care, and timely referrals to palliative and hospice care, when appropriate.

\* \* \*

\* \* \* Continuing Medical Education \* \* \*

Sec. 7. 26 V.S.A. § 1400 is amended to read:

§ 1400. RENEWAL OF LICENSE; CONTINUING MEDICAL EDUCATION

(a) Every person licensed to practice medicine and surgery by the board shall apply biennially for the renewal of his or her license. One month prior to

the date on which renewal is required, the board shall send to each licensee a license renewal application form and notice of the date on which the existing license will expire. On or before the renewal date, the licensee shall file an application for license renewal and pay the required fee. The board shall register the applicant and issue the renewal license. Within one month following the date renewal is required, the board shall pay the license renewal fees into the medical practice board special fund and shall file a list of licensees with the department of health.

(b)(1) As a condition of renewal of a license to practice medicine and surgery, the licensee, during the preceding two-year period, shall have completed a minimum of four hours of continuing medical education in the field of palliative care, hospice, end-of-life care, and management of chronic pain. Licensees may be exempt if the licensee does not engage in direct patient care or provide patient consultations.

(2) The continuing medical education requirement in the field of palliative care, hospice, end-of-life care, and management of chronic pain shall meet minimum criteria as established by rule, by the board, by August 31, 2012, and shall be effective for the renewal of licenses to practice medicine and surgery expiring after August 31, 2014.

~~(b)(c)~~ (c) A person who practices medicine and surgery and who fails to renew his or her license in accordance with the provisions of this section shall be deemed an illegal practitioner and shall forfeit the right to so practice or to hold himself or herself out as a person licensed to practice medicine and surgery in the state until reinstated by the board, but nevertheless a person who was licensed to practice medicine and surgery at the time of his or her induction, call on reserve commission, or enlistment into the armed forces of the United States, shall be entitled to practice medicine and surgery during the time of his or her service with the armed forces of the United States and for 60 days after separation from such service.

~~(e)(d)~~ (d) Any person who allows a license to lapse by failing to renew the same in accordance with the provisions of this section may be reinstated by the board by payment of the renewal fee, ~~and~~ the late renewal penalty, and if applicable, by completion of the required continuing medical education requirement as established in subdivision (b)(1) of this section.

## Sec. 8. BOARD REPORT ON CONTINUING MEDICAL EDUCATION

The state board of medical practice, as established under 26 V.S.A. § 1351, shall report to the house committee on human services and the senate committee on health and welfare by no later than January 15, 2017, on the implementation and overall impact of the continuing medical education



requirement, set forth in 26 V.S.A. § 1400(b)(1) and (2), in the field of palliative care, hospice, end-of-life care, and management of chronic pain.

\* \* \* DNR/COLST \* \* \*

Sec. 9. 18 V.S.A. § 9701 is amended to read:

§ 9701. DEFINITIONS

\* \* \*

(8) “Do-not-resuscitate order” or “DNR order” means a written order of the ~~principal’s~~ patient’s clinician directing health care providers not to attempt resuscitation.

(9) “DNR identification” means a ~~document, bracelet, other jewelry, wallet card, or other~~ necklace, bracelet, or anklet ~~method of~~ identifying the ~~principal~~ patient as an individual who has a DNR order.

\* \* \*

(15) “Health care provider” shall have the same meaning as provided in ~~subdivision section~~ section 9432(8) of this title and shall include emergency medical personnel.

\* \* \*

Sec. 10. 18 V.S.A. § 9708 is amended to read:

§ 9708. AUTHORITY AND OBLIGATIONS OF HEALTH CARE

PROVIDERS, HEALTH CARE FACILITIES, AND RESIDENTIAL  
CARE FACILITIES REGARDING DO-NOT-RESUSCITATE  
ORDERS AND CLINICIAN ORDERS FOR LIFE SUSTAINING  
TREATMENT

(a) As used in this section, “DNR/COLST” shall mean a do-not-resuscitate order (“DNR”) and a clinician order for life sustaining treatment (“COLST”) as defined in section 9701 of this title.

(b) A DNR order and a COLST shall be issued on the department of health’s “Vermont DNR/COLST form” as designated by rule by the department of health.

(c) Notwithstanding subsection (b) of this section, health care facilities and residential care facilities may document DNR/COLST orders in the patient’s medical record in a facility-specific manner when the patient is in their care.

(d) A do not resuscitate (“DNR”) DNR order must:

(1) be signed by the patient’s clinician;

(2) certify that the clinician has consulted, or made an effort to consult, with the patient, and the patient's agent or guardian, if there is an appointed agent or guardian;

(3) include either:

(A) the name of the patient, agent, guardian, or other individual giving informed consent for the DNR and the individual's relationship to the patient; or

(B) certification that the patient's clinician and one other named clinician have determined that resuscitation would not prevent the imminent death of the patient, should the patient experience cardiopulmonary arrest; and

(4) if the patient is in a health care facility or a residential care facility, certify that the requirements of the facility's DNR protocol required by section 9709 of this title have been met.

(e) A COLST must:

(1) be signed by the patient's clinician;

(2) include the name of the patient, agent, guardian, or other individual giving informed consent for the COLST and the individual's relationship to the patient.

(f) The department of health shall promulgate by rule by March 1, 2012, criteria for individuals who are not the patient, agent, or guardian, but who are giving informed consent for a DNR/COLST order. The rules shall include the following:

(1) other individuals permitted to give informed consent for a DNR/COLST order who shall be a family member of the patient or a person with a known close relationship to the patient;

(2) parameters for how decisions should be made, which shall include at a minimum the protection of a patient's own wishes in the same manner as in section 9711 of this title; and

(3) access to a hospital's internal ethics protocols for use when there is a disagreement over the appropriate person to give informed consent.

(g) A patient's clinician issuing a DNR/COLST order shall:

(1) place a copy of the completed DNR/COLST order in the patient's medical record; and

(2) provide instructions to the patient as to the appropriate means of displaying the DNR/COLST order.

~~(b)~~(h) A clinician who issues a DNR order may shall authorize issuance of a DNR identification to the principal patient. A uniform DNR identification shall be determined by rule by the department of health no later than March 1, 2012.

~~(e)~~(i) Every health care provider, health care facility, and residential care facility shall honor a DNR/COLST order or a DNR identification unless

the provider or facility:

(1) believes in good faith, after consultation with the agent or guardian where possible and appropriate, that:

(A) the ~~principal~~ patient wishes to have the DNR/COLST order revoked; or

(B) the ~~principal~~ patient with the DNR identification is not the individual for whom the DNR order was issued; and

(2) documents the basis for ~~that~~ the good faith belief in the ~~principal's~~ patient's medical record.

(j) A health care provider shall honor in good faith an out-of-state DNR order, orders for life sustaining treatment, or out-of-state DNR identification if there is no reason to believe that what has been presented is invalid.

~~(d)~~(k) A DNR order precludes efforts to resuscitate only in the event of cardiopulmonary arrest and does not affect other therapeutic interventions that may be appropriate for the patient.

Sec. 11. 18 V.S.A. § 9709 is amended to read:

§ 9709. OBLIGATIONS OF HEALTH CARE PROVIDERS, HEALTH CARE FACILITIES, RESIDENTIAL CARE FACILITIES, AND HEALTH INSURERS REGARDING PROTOCOLS AND NONDISCRIMINATION

(a) As used this section, "DNR/COLST" shall mean do-not-resuscitate orders ("DNR") and clinician orders for life sustaining treatment ("COLST") as defined in section 9701 of this title.

(b) Every health care provider, health care facility, and residential care facility shall develop protocols:

(1) to ensure that a principal's advance directive, including any amendment, suspension, or revocation thereof, and DNR/COLST order, if any, are promptly available when services are to be provided, including that the existence of the advance directive, amendment, suspension, revocation, or DNR/COLST order is prominently noted on any file jacket or folder, and that a note is entered into any electronic database of the provider or facility;

(2) for maintaining advance directives received from individuals who anticipate future care but are not yet patients of that provider or facility;

(3) ~~within 120 days of the commissioner announcing the availability of the registry,~~ to ensure that the provider or facility checks the registry at the time any individual without capacity is admitted or provided services to determine whether the individual has an advance directive;

\* \* \*

~~(b)~~(c) Every health care facility and residential care facility shall develop written protocols to ensure that:

\* \* \*

(4) DNR/COLST orders are issued, revoked, and handled pursuant to the same process and standards that are used for each patient receiving health care.

(5) Upon transfer or discharge from the facility,:

(A) A copy of any advance directive, DNR order, and ~~clinician order for life sustaining treatment~~ is COLST order shall be transmitted with the principal or patient or, if, If the transfer is to a health care facility or residential care facility, is any advance directive, DNR order, and COLST order, shall be promptly transmitted to the subsequent facility, unless the sending facility has confirmed that the receiving facility has a copy of any advance directive, DNR order, or ~~clinician order for life sustaining treatment~~ COLST order.

(B) For a patient for whom DNR/COLST orders are documented in a facility-specific manner, any DNR/COLST orders to be continued upon discharge, during transport, or in another setting shall be documented on the Vermont DNR/COLST form as outlined in subsection 9708(b) of this title.

~~(e)~~(d) Every hospital shall designate an adequate number of individuals to explain the nature and effect of an advance directive to patients as required by subsection 9703(e) of this title.

~~(d)~~(e) No health care provider, health care facility, residential care facility, health insurer as defined in section 9402 of this title, insurer issuing disability insurance, or self-insured employee welfare benefit plan shall charge an individual a different rate or require any individual to execute an advance directive or to obtain a DNR/COLST order or DNR identification as a condition of admission to a facility or as a condition of being insured for or receiving health care or residential care. No health care shall be refused except as provided herein because an individual is known to have executed an advance directive.

Sec. 12. 18 V.S.A. § 9719 is amended to read:

§ 9719. OBLIGATIONS OF STATE AGENCIES

(a) No later than ~~July 1, 2006~~ March 1, 2012, and from time to time thereafter, the commissioner, in consultation with all appropriate agencies and organizations, shall adopt rules pursuant to chapter 25 of Title 3 to effectuate

the intent of this chapter. The rules shall cover at least one optional form of an advance directive with an accompanying form providing an explanation of choices and responsibilities, ~~the form and content of clinician orders for life sustaining treatment,~~ the Vermont DNR/COLST form as outlined in subsection 9708(b) of this title, the use of experimental treatments, ~~a model DNR order which meets the requirements of subsection 9708(a) of this title,~~ a DNR identification, revocation of a DNR identification, and consistent statewide emergency medical standards for DNR/COLST orders and advance directives for patients and principals in all settings. The commissioner shall also provide, but without the obligation to adopt a rule, optional forms for advance directives for individuals with disabilities, limited English proficiency, and cognitive translation needs.

\* \* \*

#### Sec. 13. EFFECTIVE DATE

This act shall take effect on passage.

( **Committee Vote: 11-0-0** )

#### **Consent Calendar**

#### **Concurrent Resolutions**

The following concurrent resolutions have been introduced for approval by the Senate and House and will be adopted automatically unless a Senator or Representative requests floor consideration before the end of the session of the next legislative day. Requests for floor consideration in either chamber should be communicated to the Secretary's office and/or the House Clerk's office, respectively. For text of resolutions, see Addendum to House Calendar and Senate Calendar.

#### **H.C.R. 82**

House concurrent resolution honoring Vermont National Guard Command Sergeant Major Michael Dattilio for his 42 years of exemplary military service

#### **H.C.R. 83**

House concurrent resolution honoring Calais Town Clerk and former representative Eva M. Morse for her extraordinary civic service on behalf of the citizens of Calais

#### **H.C.R. 84**

House concurrent resolution congratulating Krystal Smith on winning the 25th Annual U.S. Best Bagger National Championship

**H.C.R. 85**

House concurrent resolution congratulating Vermont State Archivist Gregory Sanford on winning the Matthew Lyon Award

**H.C.R. 86**

House concurrent resolution honoring the civic service of Bennington Selectboard Chair Lodie Colvin

**H.C.R. 87**

House concurrent resolution honoring Monkton town clerk Carmelita Burritt for her exemplary civic service

**H.C.R. 88**

House concurrent resolution congratulating Cochran's Ski Area on its golden anniversary

**H.C.R. 89**

House concurrent resolution congratulating the town of Guilford as it celebrates its 250th anniversary

**H.C.R. 90**

House concurrent resolution in memory of Henry Blanchette

**H.C.R. 91**

House concurrent resolution congratulating the *Addison County Independent* and its staff on winning nine New England Newspaper and Press Association awards

**H.C.R. 92**

House concurrent resolution congratulating the 2010 Rice Memorial High School Division II championship football team

**H.C.R. 93**

House concurrent resolution honoring employees of municipal public works departments and designating May 15–21, 2011 as Public Works Week in Vermont

**H.C.R. 94**

House concurrent resolution congratulating the 2010 South Burlington High School Rebels 2010 Division I championship field hockey team

**H.C.R. 95**

House concurrent resolution congratulating the 2010 South Burlington High School Rebels Division I championship girls' soccer team

**H.C.R. 96**

House concurrent resolution congratulating the 2011 Essex High School *We the People . . . The Citizen and the Constitution* Vermont championship team

**H.C.R. 97**

House concurrent resolution honoring the outstanding efforts of those who provide child development services in Vermont and work on behalf of our youngest citizens

**H.C.R. 98**

House concurrent resolution congratulating the Vermont State Board of Nursing on its centennial anniversary

**For Informational Purposes**

**CROSSOVER DEADLINE**

The crossover deadline has been set for **Friday, March 11, 2011**.

This deadline means that reports on any House bills for consideration this year must be reported by the last committee of reference (excluding the committees on Appropriations and Ways and Means), on or before Friday, March 11, 2011, and filed with the Clerk of the House in order that the bills may be placed on the Calendar for Notice the next legislative day.

Bills referred to the committees on Appropriations and Ways and Means must be reported by those committees on or before **Friday, March 18, 2011** and filed with the Clerk of the House.

These deadlines may be waived for any bill, or committee, only with the consent of the Committee on Rules.

**Public Hearings**

March 31, 2011 - 6:00 - 8:00 PM - House Chamber - Senate Committee on Health and Welfare - S. 57 Health Care Reform

**SENATE APPROPRIATIONS COMMITTEE**

**FY 2012 Budget**

**ADVOCATES TESTIMONY**

On **Tuesday, March 22** beginning at **1:30 pm**, the Senate Appropriations Committee will be taking testimony from advocates regarding the Fiscal Year 2012 Budget in the Senate Chamber of the State House. All time slots have been filled. To submit written testimony to the Committee contact Becky Buck at the Legislative Joint Fiscal Office located at 1 Baldwin Street (phone: 828-5969) or via e-mail at: [rbuck@leg.state.vt.us](mailto:rbuck@leg.state.vt.us)